

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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VADIM BABYREV,

No. 19 CV 11693-LTS

Petitioner,

-against-

BRIAN BELFI et al.,

Respondents.

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ORDER

The Court has received and reviewed Petitioner's letter requesting to proceed in forma pauperis, pro se, and keep his court-appointed counsel as stand-by counsel, (Docket Entry No. 9), as well as his letter in which he objects to Defendants' request for an extension of time to answer the petition. (Docket Entry No. 12.)

The motion to proceed pro se and for counsel to serve as stand-by counsel is denied. This petition is in its early stages, and the Court has determined that appointed counsel is necessary. Furthermore, the amount of time that has passed since counsel began her efforts to gather information and familiarize herself with the case is not unusual, given the length and complexity of the events described in the Petition.

The Court has granted Respondents' motion for extension of time to answer the Petition. See Docket Entry No. 13. Petitioner's appointed counsel consented to that request, and the Court found the length of the requested extension reasonable. Accordingly, Petitioner's request to be heard in opposition to that request is moot.

The Court hereby directs Petitioner's appointed counsel, Bobbi C. Sternheim, to file a status report by **May 15, 2020**, after further investigation and communication with Petitioner, addressing whether this case may proceed without appointment of a guardian. See James v. New

York, 415 F. App'x 295, 297 (2d Cir. 2011) (“A court may not determine on its merits the claim of an incompetent person who is not properly represented.”) (citing Berrios v. N.Y.C. Hous. Auth., 564 F.3d 130, 134 (2d Cir. 2009)). The status report should address whether any mechanisms exist in federal court for the provision of a guardian in this matter, as well as a proposed schedule with respect to litigation of the Petition.

Petitioner also requested that the Court permit him to proceed in forma pauperis and serve a copy of his letter motion docketed as entry number 12 on Respondents. The Court has posted the letter on the docket, which suffices as service upon Respondents, whose counsel has registered for ECF notice in this case. As the docket indicates that Petitioner has already paid the \$5 filing fee and the Court has effectuated service of the Petition upon Respondents, the reason for Petitioner’s in forma pauperis request is unclear. That request is denied without prejudice.

Petitioner’s counsel is directed to provide a copy of this order to the Petitioner promptly.

Docket Entry Numbers 9 and 12 are hereby resolved.

SO ORDERED.

Dated: New York, New York
March 17, 2020

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
United States District Judge